

**READINGTON TOWNSHIP COMMITTEE
MEETING – November 4, 2009**

Mayor Allen *calls the meeting to order at 6:30 p.m.* announcing that all laws governing the Open Public Meetings Act have been met and that this meeting has been duly advertised.

PRESENT: Mayor J. Allen, Mrs. B Muir, Mr. Frank Gatti, Mr. T. Auriemma, Mr. G. Shamey

ALSO PRESENT: Administrator Mekovetz, Attorney S. Dragan, Engineer McEldowney

ABSENT: None

EXECUTIVE SESSION:

Clerk read the following Resolution:

RESOLUTION
EXECUTIVE SESSION

WHEREAS, N.J.S.A. 10:4-6 *et seq.*, the Open Public Meetings Act, permits the exclusion of the public from a meeting in certain circumstances; and

WHEREAS, the Township Committee is of the opinion that such circumstances presently exist and desires to authorize the exclusion of the public from the portion of the meeting in accordance with the act;

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Readington, County of Hunterdon, State of New Jersey as follows:

1. The public shall be excluded from discussion of and action upon the specified subject matter as set forth in the following Exhibit "A."

EXHIBIT A

<u>Subject Matter</u>	<u>Basis Of Public Exclusion</u>	<u>Date Anticipate When Disclosed to Public</u>
Police Department.....	Personnel.....	Certain information at the discretion of Township Committee tonight...other information will remain
Civil Action Summons/ Ryland Developers, LLC v. Twp. of Readington	Litigation.....	“ “ “
Civil Action Summons/Tilcon.....	Litigation.....	“ “ “
Small Claims Summons/ Randazzese	Litigation.....	“ “ “
Main Street (Block 34, Lot 8).....	Contract Negotiations.....	“ “ “
Professional Services/ Engineering	Contract Negotiations.....	“ “ “
Executive Session Minutes..... (October 19 and 27, 2009)	Attorney-Client Privilege.....	“ “ “
Block 48, Lot 23; Block 55, Lot 33, Block 56, Lots 1, 3, 6 & 8; Block Lot 24 and Block 67, Lot 2 (Solberg Aviation/Hromoho)	Litigation.....	“ “ “

It is anticipated at this time that the stated subject matter will be made public on or about the time set forth in Exhibit “A.”

2. This Resolution shall take effect immediately.

A **MOTION** was made by Mr. Shamey to adopt this resolution, seconded by Mr. Auriemma with a vote of ayes all, nays none recorded.

The meeting reconvened 7:50 p.m.

Mayor Allen led those present in the *Salute to the Flag*.

Mayor Allen announced that the following business was completed during Executive Session:

Personnel/Police Department

Mayor Allen stated that this matter remains in Executive Session.

Litigation/Civil Action Summons/Ryland Developers, LLC vs. Township of Readington

A **MOTION** was made by Mr. Shamey to hire the law firm of Gebhardt and Kiefer to represent the Township and the Mayor and Township Committee in this action, seconded by Mr. Gatti and on Roll Call vote the following was recorded:

Mr. Auriemma	- Aye
Mr. Gatti	- Aye
Mrs. Muir	- Aye
Mr. Shamey	- Aye
Mayor Allen	- Aye

Litigation/Civil Action Summons/Tilcon

A **MOTION** was made by Mr. Shamey to authorize Robert Ballard, Esq. to represent the Township in this action, seconded by Mr. Gatti and on Roll Call vote the following was recorded:

Mr. Auriemma	- Aye
Mr. Gatti	- Aye
Mrs. Muir	- Aye
Mr. Shamey	- Aye
Mayor Allen	- Aye

Litigation/Small Claims Summons/Randazzese

Mayor Allen stated that this matter remains in Executive Session.

Contract Negotiations/Block 34, Lot 8 (Main Street)

A **MOTION** was made by Mr. Shamey to approve the contract as amended, seconded by Mr. Gatti and on Roll Call vote the following was recorded:

Mr. Auriemma	- Aye
Mr. Gatti	- Aye
Mrs. Muir	- Aye
Mr. Shamey	- Aye
Mayor Allen	- Recused

Contract Negotiations/Professional Services/Engineering

Mayor Allen stated that this matter remains in Executive Session.

Attorney-Client Privilege/Executive Session Minutes (October 19 and 27, 2009)

A ***MOTION*** was made by Mr. Shamey to approve the Executive Session Minutes of October 19, 2009 for content only, as amended to reflect that Mrs. Muir was absent, seconded by Mr. Auriemma with a vote of ayes all, nays none recorded. Mrs. Muir abstained since she was not present at that meeting

A ***MOTION*** was made by Mr. Shamey to approve the Executive Session Minutes of October 27, 2009 for content only, seconded by Mr. Auriemma with a vote of ayes all, nays none recorded.

Litigation/Block 48, Lot 23; Block 55, Lot 33; Block 56, Lot 1, 3, 6 & 8; Block 39, Lot 24 and Block 67, Lot 2 (Solberg Aviation/Hromoho)

Mayor Allen stated that there was no discussion on this matter.

CONSENT AGENDA:

Mayor Allen read the following statement:

All items listed with an asterisk “p” are considered to be routine by the Township Committee and will be enacted by one motion. There will be no separate discussion of these items unless a committee member or citizen requests, in which event the item will be removed from the General Order of Business and considered in its normal sequence on the agenda.

- p1. **APPROVAL OF MINUTES** of meeting of October 19 and 27, 2009
- p2. ***Award of Bond Anticipation Notes \$7,500,000***
- p3. ***Cellco Partnership d/b/a Verizon Wireless, Block 17, Lot*** – release of escrow with maintenance bond required
- p4. ***Agricultural Development Area – Block 94, Lots 6.02, 8 and 11***

The following resolution was offered for consideration:

#R-2009-115

***TOWNSHIP OF READINGTON
RESOLUTION***

WHEREAS, Block 94, Lots 6.02, 8, and 11 as shown on the Readington Township tax map are not presently in the Hunterdon County Agricultural Development area for Readington Township as approved by the Hunterdon County Agricultural Development Board (CADB); and

WHEREAS, the Township Committee requests that the CADB and SADC amend the boundaries of the Hunterdon County Agricultural Development Area to include Block 94, Lots 6.02, 8 and 11 in Readington Township.

NOW, THEREFORE, BE IT RESOLVED, that the Township Committee of the Township of Readington, County of Hunterdon, State of New Jersey, does hereby support and request the inclusion of Block 94, Lots 6.02, 8, and 11 in Readington Township in the designated Hunterdon County Agricultural Development Area (ADA); and

BE IT FURTHER RESOLVED, that a copy of this resolution will be forwarded to the CADB for submission to the SADC as needed for final approval.

- p5. ***Amended Postponement of Mortgage*** – Ruthanne Walsh (418 South Branch Dr.)
- p6. ***Postponement of Mortgage*** – Rene Russo (406 Dove Cote Court)

ρ7. **Payment of Bills** – (Complete bill list is on file in Clerk’s Office)

Fund Description	Fund No.	Received Total
CURRENT FUND	8-01	\$ 3,377.00
CURRENT FUND	9-01	\$ 549,477.19
SEWER APPROPRIATIONS	9-02	\$ 100,150.78
TRUST FUNDS	X-03	\$ 43,652.83
MISC REFUND, COUNTY TAX, LIENS	X-05	\$ 3,138,847.83
PAYROLL DEDUCTIONS	X-06	\$ 160,301.62
REGIONAL & SCHOOL TAX	X-07	\$ 5,606,363.80
DUE TO STATE OF NJ	X-09	<u>\$ 7,924,339.04</u>
 TOTAL OF ALL FUNDS		 \$17,526,510.09

A **MOTION** was made by Mrs. Muir to approve the Consent Agenda, although Mrs. Muir stated she was not present at the October 19, 2009 meeting, seconded by Mr. Gatti and on Roll Call vote the following was recorded:

Mr. Auriemma - Aye
 Mrs. Muir - Aye
 Mr. Gatti - Aye
 Mr. Shamey - Aye
 Mayor Allen - Aye

PUBLIC HEARINGS

As it was after 8:00 p.m., A **MOTION** was made by Mrs. Muir adjourn the regular meeting to hold a Public Hearing, seconded by Mr. Auriemma with a vote of ayes all, nays none recorded.

Clerk read by Title:

**AN ORDINANCE AMENDING ORDINANCE AMENDING SEC. 148-111 OF
 THE LAND DEVELOPMENT ORDINANCE OF THE TOWNSHIP
 OF READINGTON REGARDING COAH DEVELOPMENT FEES**

ORDINANCE #27-2009

Mayor Allen stated that this ordinance is part of Readington Township’s effort to maintain compliance with the State’s COAH regulations.

Attorney Dragan stated that this ordinance completely replaces the present ordinance because COAH regulations have changed.

Mayor Allen asked if there were any comments from the Governing Body.

There were none.

Mayor Allen asked if there were any comments from the Public.

There were none.

A **MOTION** was made by Mr. Shamey to close the Public Hearing and open the regular meeting, seconded by Mr. Gatti with a vote of ayes all, nays none recorded.

Clerk read by Title:

AN ORDINANCE AMENDING ORDINANCE AMENDING SEC. 148-111 OF THE LAND DEVELOPMENT ORDINANCE OF THE TOWNSHIP OF READINGTON REGARDING COAH DEVELOPMENT FEES

ORDINANCE #27-2009

BE IT ORDAINED, by the Township Committee of the Township of Readington, County of Hunterdon as follows:

SECTION 1. Section 148-111 of the Land Development Ordinance of the Township of Readington shall be and is hereby deleted in its entirety and is hereby replaced with the following new provisions:

SECTION 2. PURPOSE

- a) In Holmdel Builder’s Association V. Holmdel Township, 121 N.J. 550 (1990), the New Jersey Supreme Court determined that mandatory development fees are authorized by the Fair Housing Act of 1985 (the Act), N.J.S.A. 52:27d-301 et seq., and the State Constitution, subject to the Council on Affordable Housing’s (COAH’s) adoption of rules.
- b) Pursuant to P.L.2008, c.46 section 8 (C. 52:27D-329.2) and the Statewide Non-Residential Development Fee Act (C. 40:55D-8.1 through 8.7), COAH is authorized to adopt and promulgate regulations necessary for the establishment, implementation, review, monitoring and enforcement of municipal affordable housing trust funds and corresponding spending plans. Municipalities that are under the jurisdiction of the Council or court of competent jurisdiction and have a COAH-approved spending plan may retain fees collected from non-residential development.
- c) This ordinance establishes standards for the collection, maintenance, and expenditure of development fees pursuant to COAH’s regulations and in accordance P.L.2008, c.46, Sections 8 and 32-38. Fees collected pursuant to this ordinance shall be used for the sole purpose of providing low- and moderate-income housing. This ordinance shall be interpreted within the framework of COAH’s rules on development fees, codified at N.J.A.C. 5:97-8.

SECTION 3. BASIC REQUIREMENTS

- a) This ordinance is being adopted in accordance with a resolution adopted by COAH entitled “Resolution Approving Development Fee Ordinance Amendment Readington Township/Hunterdon County” on August 4, 2009, as required by N.J.A.C. 5:96-5.1.
- b) Readington Township shall not spend development fees until COAH has approved a plan for spending such fees in conformance with N.J.A.C. 5:97-8.10 and N.J.A.C. 5:96-5.3.

SECTION 4. DEFINITIONS

- a) The following terms, as used in this ordinance, shall have the following meanings:
 - i. “**Affordable housing development**” means a development included in the Housing Element and Fair Share Plan, and includes, but is not limited to, an inclusionary development, a municipal construction project or a 100 percent affordable development.

Ordinance #27-2009 cont'd:

- ii. “**COAH**” or the “**Council**” means the New Jersey Council on Affordable Housing established under the Act which has primary jurisdiction for the administration of housing obligations in accordance with sound regional planning consideration in the State.
- iii. “**Development fee**” means money paid by a developer for the improvement of property as permitted in N.J.A.C. 5:97-8.3.
- iv. “**Developer**” means the legal or beneficial owner or owners of a lot or of any land proposed to be included in a proposed development, including the holder of an option or contract to purchase, or other person having an enforceable proprietary interest in such land.
- v. “**Equalized assessed value**” means the assessed value of a property divided by the current average ratio of assessed to true value for the municipality in which the property is situated, as determined in accordance with sections 1, 5, and 6 of P.L.1973, c.123 (C.54:1-35a through C.54:1-35c).
- vi. “**Green building strategies**” means those strategies that minimize the impact of development on the environment, and enhance the health, safety and well-being of residents by producing durable, low-maintenance, resource-efficient housing while making optimum use of existing infrastructure and community services.

SECTION 5. RESIDENTIAL DEVELOPMENT FEES

- a) Imposed fees
 - i. Within all zoning district(s), residential developers, except for developers of the types of development specifically exempted below, shall pay a fee of 1.5 percent of the equalized assessed value for residential development provided no increased density is permitted.
 - ii. When an increase in residential density pursuant to N.J.S.A. 40:55D-70d(5) (known as a “d” variance) has been permitted, developers may be required to pay a development fee of 6 percent of the equalized assessed value for each additional unit that may be realized. However, if the zoning on a site has changed during the two-year period preceding the filing of such a variance application, the base density for the purposes of calculating the bonus development fee shall be the highest density permitted by right during the two-year period preceding the filing of the variance application.

Example: If an approval allows four units to be constructed on a site that was zoned for two units, the fees could equal one and a half percent of the equalized assessed value on the first two units; and the specified higher percentage up to six percent of the equalized assessed value for the two additional units, provided zoning on the site has not changed during the two-year period preceding the filing of such a variance application.
- b) Eligible exactions, ineligible exactions and exemptions for residential development
 - i. Affordable housing developments, developments where the developer is providing for the construction of affordable units elsewhere in the municipality, and developments where the developer has made a payment in lieu of on-site construction of affordable units shall be exempt from development fees.

Ordinance #27-2009 cont'd:

- ii. Developments that have received preliminary or final site plan approval prior to the adoption of a municipal development fee ordinance shall be exempt from development fees, unless the developer seeks a substantial change in the approval. Where a site plan approval does not apply, a zoning and/or building permit shall be synonymous with preliminary or final site plan approval for this purpose. The fee percentage shall be vested on the date that the building permit is issued.
- iii. Development fees shall be imposed and collected when an existing structure undergoes a change to a more intense use, is demolished and replaced, or is expanded, if the expansion is not otherwise exempt from the development fee requirement. The development fee shall be calculated on the increase in the equalized assessed value of the improved structure.
- iv. Developers of residential structures demolished and replaced as a result of a natural disaster shall be exempt from paying a development fee.

SECTION 6. NON-RESIDENTIAL DEVELOPMENT FEES

- a) Imposed fees
 - i. Within all zoning districts, non-residential developers, except for developers of the types of development specifically exempted, shall pay a fee equal to two and one-half (2.5) percent of the equalized assessed value of the land and improvements, for all new non-residential construction on an unimproved lot or lots.
 - ii. Non-residential developers, except for developers of the types of development specifically exempted, shall also pay a fee equal to two and one-half (2.5) percent of the increase in equalized assessed value resulting from any additions to existing structures to be used for non-residential purposes.
 - iii. Development fees shall be imposed and collected when an existing structure is demolished and replaced. The development fee of two and a half percent (2.5%) shall be calculated on the difference between the equalized assessed value of the pre-existing land and improvement and the equalized assessed value of the newly improved structure, i.e. land and improvement, at the time final certificate of occupancy is issued. If the calculation required under this section results in a negative number, the non-residential development fee shall be zero.
- b) Eligible exactions, ineligible exactions and exemptions for non-residential development
 - i. The non-residential portion of a mixed-use inclusionary or market rate development shall be subject to the two and a half (2.5) percent development fee, unless otherwise exempted below.
 - ii. The 2.5 percent fee shall not apply to an increase in equalized assessed value resulting from alterations, change in use within existing footprint, reconstruction, renovations and repairs.
 - iii. Non-residential developments shall be exempt from the payment of non-residential development fees in accordance with the exemptions required pursuant to P.L.2008, c.46, as specified in the Form N-RDF “State of New Jersey Non-Residential Development Certification/Exemption” Form. Any exemption claimed by a developer shall be substantiated by that developer.

Ordinance #27-2009 cont'd:

- iv. A developer of a non-residential development exempted from the non-residential development fee pursuant to P.L.2008, c.46 shall be subject to it at such time the basis for the exemption no longer applies, and shall make the payment of the non-residential development fee, in that event, within three years after that event or after the issuance of the final certificate of occupancy of the non-residential development, whichever is later.
- v. If a property which was exempted from the collection of a non-residential development fee thereafter ceases to be exempt from property taxation, the owner of the property shall remit the fees required pursuant to this section within 45 days of the termination of the property tax exemption. Unpaid non-residential development fees under these circumstances may be enforceable by Readington as a lien against the real property of the owner.

SECTION 7. COLLECTION PROCEDURES

- a) Upon the granting of a preliminary, final or other applicable approval, for a development, the applicable approving authority shall direct its staff to notify the construction official responsible for the issuance of a building permit.
- b) For non-residential developments only, the developer shall also be provided with a copy of Form N-RDF “State of New Jersey Non-Residential Development Certification/Exemption” to be completed as per the instructions provided. The developer of a non-residential development shall complete Form N-RDF as per the instructions provided. The construction official shall verify the information submitted by the non-residential developer as per the instructions provided in the Form N-RDF. The Tax assessor shall verify exemptions and prepare estimated and final assessments as per the instructions provided in Form N-RDF.
- c) The construction official responsible for the issuance of a building permit shall notify the local tax assessor of the issuance of the first building permit for a development which is subject to a development fee.
- d) Within 90 days of receipt of that notice, the municipal tax assessor, based on the plans filed, shall provide an estimate of the equalized assessed value of the development.
- e) The construction official responsible for the issuance of a final certificate of occupancy notifies the local assessor of any and all requests for the scheduling of a final inspection on property which is subject to a development fee.
- f) Within 10 business days of a request for the scheduling of a final inspection, the municipal assessor shall confirm or modify the previously estimated equalized assessed value of the improvements of the development; calculate the development fee; and thereafter notify the developer of the amount of the fee.
- g) Should Readington fail to determine or notify the developer of the amount of the development fee within 10 business days of the request for final inspection, the developer may estimate the amount due and pay that estimated amount consistent with the dispute process set forth in subsection b. of section 37 of P.L.2008, c.46 (C.40:55D-8.6).

Ordinance #27-2009 cont'd:

- h) Fifty percent of the development fee shall be collected at the time of issuance of the building permit. The remaining portion shall be collected at the issuance of the certificate of occupancy. The developer shall be responsible for paying the difference between the fee calculated at building permit and that determined at issuance of certificate of occupancy.
- i) Appeal of development fees
 - 1) A developer may challenge residential development fees imposed by filing a challenge with the County Board of Taxation. Pending a review and determination by the Board, collected fees shall be placed in an interest bearing escrow account by Readington Township. Appeals from a determination of the Board may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, R.S.54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.
 - 2) A developer may challenge non-residential development fees imposed by filing a challenge with the Director of the Division of Taxation. Pending a review and determination by the Director, which shall be made within 45 days of receipt of the challenge, collected fees shall be placed in an interest bearing escrow account by Readington. Appeals from a determination of the Director may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, R.S.54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.

SECTION 8. AFFORDABLE HOUSING TRUST FUND

- a) There is hereby created a separate, interest-bearing housing trust fund to be maintained by the Chief Financial Officer for the purpose of depositing development fees collected from residential and non-residential developers and proceeds from the sale of units with extinguished controls.
- b) The following additional funds shall be deposited in the Affordable Housing Trust Fund and shall at all times be identifiable by source and amount:
 - 1. payments in lieu of on-site construction of affordable units;
 - 2. developer contributed funds to make ten percent (10%) of the adaptable entrances in a townhouse or other multistory attached development accessible;
 - 3. rental income from municipally operated units;
 - 4. repayments from affordable housing program loans;
 - 5. recapture funds;
 - 6. proceeds from the sale of affordable units; and
 - 7. any other funds collected in connection with Readington's affordable housing program.
- c) Within seven days from the opening of the trust fund account, Readington Township shall provide COAH with written authorization, in the form of a three-party escrow agreement between the municipality, the bank, and COAH to permit COAH to direct the disbursement of the funds as provided for in N.J.A.C. 5:97-8.13(b).
- d) All interest accrued in the housing trust fund shall only be used on eligible affordable housing activities approved by COAH.

SECTION 9. USE OF FUNDS

Ordinance #27-2009 cont'd:

- a) The expenditure of all funds shall conform to a spending plan approved by COAH. Funds deposited in the housing trust fund may be used for any activity approved by COAH to address the Readington's fair share obligation and may be set up as a grant or revolving loan program. Such activities include, but are not limited to: preservation or purchase of housing for the purpose of maintaining or implementing affordability controls, rehabilitation, new construction of affordable housing units and related costs, accessory apartment, market to affordable, or regional housing partnership programs, conversion of existing non-residential buildings to create new affordable units, green building strategies designed to be cost saving and in accordance with accepted national or state standards, purchase of land for affordable housing, improvement of land to be used for affordable housing, extensions or improvements of roads and infrastructure to affordable housing sites, financial assistance designed to increase affordability, administration necessary for implementation of the Housing Element and Fair Share Plan, or any other activity as permitted pursuant to N.J.A.C. 5:97-8.7 through 8.9 and specified in the approved spending plan.
- b) Funds shall not be expended to reimburse Readington Township for past housing activities.
- c) At least 30 percent of all development fees collected and interest earned shall be used to provide affordability assistance to low- and moderate-income households in affordable units included in the municipal Fair Share Plan. One-third of the affordability assistance portion of development fees collected shall be used to provide affordability assistance to those households earning 30 percent or less of median income by region.
 - i. Affordability assistance programs may include down payment assistance, security deposit assistance, low interest loans, rental assistance, assistance with homeowners association or condominium fees and special assessments, and assistance with emergency repairs.
 - ii. Affordability assistance to households earning 30 percent or less of median income may include buying down the cost of low or moderate income units in the municipal Fair Share Plan to make them affordable to households earning 30 percent or less of median income.
 - iii. Payments in lieu of constructing affordable units on site and funds from the sale of units with extinguished controls shall be exempt from the affordability assistance requirement.
- d) Readington Township may contract with a private or public entity to administer any part of its Housing Element and Fair Share Plan, including the requirement for affordability assistance, in accordance with N.J.A.C. 5:96-18.
- e) No more than 20 percent of all revenues collected from development fees, may be expended on administration, including, but not limited to, salaries and benefits for municipal employees or consultant fees necessary to develop or implement a new construction program, a Housing Element and Fair Share Plan, and/or an affirmative marketing program. In the case of a rehabilitation program, no more than 20 percent of the revenues collected from development fees shall be expended for such administrative expenses. Administrative funds may be used for income qualification of households, monitoring the turnover of sale and rental units, and compliance with COAH's monitoring requirements. Legal or other fees related to litigation opposing affordable housing sites or objecting to the Council's regulations and/or action are not eligible uses of the affordable housing trust fund.

Ordinance #27-2009 cont'd:

SECTION 10. MONITORING

- a) Readington Township shall complete and return to COAH all monitoring forms included in monitoring requirements related to the collection of development fees from residential and non-residential developers, payments in lieu of constructing affordable units on site, funds from the sale of units with extinguished controls, barrier free escrow funds, rental income, repayments from affordable housing program loans, and any other funds collected in connection with Readington's housing program, as well as to the expenditure of revenues and implementation of the plan certified by COAH. All monitoring reports shall be completed on forms designed by COAH.

SECTION 11. ONGOING COLLECTION OF FEES

- a) The ability for Readington Township to impose, collect and expend development fees shall expire with its substantive certification unless Readington has filed an adopted Housing Element and Fair Share Plan with COAH, has petitioned for substantive certification, and has received COAH's approval of its development fee ordinance. If Readington fails to renew its ability to impose and collect development fees prior to the expiration of substantive certification, it may be subject to forfeiture of any or all funds remaining within its municipal trust fund. Any funds so forfeited shall be deposited into the "New Jersey Affordable Housing Trust Fund" established pursuant to section 20 of P.L.1985, c.222 (C.52:27D-320). Readington shall not impose a residential development fee on a development that receives preliminary or final site plan approval after the expiration of its substantive certification or judgment of compliance, nor shall Readington Township retroactively impose a development fee on such a development. Readington Township shall not expend development fees after the expiration of its substantive certification or judgment of compliance.

SECTION 12. SUPERSEDING EFFECT.

This ordinance supersedes any sections or portions of the Land Development Ordinance of the Township of Readington or any other Township ordinances inconsistent herewith. All ordinances or parts of ordinances inconsistent with this Ordinance are hereby repealed to the extent of such inconsistency.

SECTION 13. SEVERABILITY.

If the provision of any article, section, subsection, paragraph, subdivision or clause of this ordinance shall be adjudged by an court of competent jurisdiction to be invalid, such order of judgment shall not affect, impair or invalidate the remainder of any such article, section, subsection, paragraph, subdivision or clause and to this end, the provisions of this ordinance are hereby declared to be severable.

SECTION 14. EXPIRATION OF PROVISIONS.

The provisions of this COAH development fee ordinance shall expire and become null and void in the event Readington Township withdraws its petition for substantive certification, fails to obtain substantive certification, allows its certification to lapse, or is revoked by COAH.

SECTION 15. EFFECTIVE DATE.

This ordinance shall be filed with COAH within seven days of adoption. it shall take effect upon final passage, adoption and publication according to law and upon filing with the Hunterdon County Planning Board.

This ordinance was published in it's entirety since at the time of introduction it was still in draft form.

A MOTION was made by Mr. Shamey to close the Public Hearing and open the regular meeting, seconded by Mrs. Muir with a vote of ayes all, nays none recorded.

A MOTION was made by Mr. Shamey to adopt this Ordinance, seconded by Mrs. Muir and on Roll Call vote the following was recorded:

Mr. Auriemma	- Aye
Mrs. Muir	- Aye
Mr. Gatti	- Aye
Mr. Shamey	- Aye
Mayor Allen	- Aye

CORRESPONDENCE/OTHER INFORMATION

1. Notice of Public Hearing dated October 14, 2009 from Donna P. McCutcheon, Land use Secretary, Planning Board Clerk, Township of Branchburg regarding **Public Comment on 2009 North Branch Vision Plan Element**. No action taken.
2. Notice to Public Service Electric and Gas Company Customers from Gregory Eisenstark, Esq. Assistant General Corporate Rate Counsel, PSE&G regarding **Notice of a Filing and Notice of Public Hearing**. No action taken.

OLD BUSINESS

1. **Off-Road Vehicles Ordinance**

Attorney Dragan stated that this was a model ordinance taken from the State and some additional language was added at the Committee's suggestion. Mrs. Muir stated she had some problems with this ordinance because of the fact that not all off road vehicles are the same and some all terrain vehicles are use for utilitarian purposes. Attorney Dragan stated that the exceptions listed in the ordinance would apply to those vehicles. Mr. Shamey asked if there is an alleged violation, would the Noise Level Investigator have the authority to write a complaint. Attorney Dragan recommended forwarding the ordinance to those that would be enforcing this ordinance, namely the Police and the Zoning Officer, for review and comment.

2. **Spring Meadow** – discussion

Joe Scotto, a resident of Spring Meadow development, appeared before the Committee expressing concern regarding the abuse of trucks passing through the cul de sac to the Cole's farm and also hunters violating the easement on the Torres property. Mr. Scotto stated that they have met with the Coles to address the problem with no satisfactory resolution. Mr. Scotto stated that he was under the impression that the easement would be used only several times a year for farm equipment. Paul Centamore, of Holly Lane, stated that when Ryan Homes received the approvals to build and the Coles requested the easement, it was specifically stated how often the farming equipment would be able to pass through the easement. Attorney Dragan stated that they would need to review the language in the deed along with the resolution of approval from the Planning Board. Engineer McEldowney stated that if there is a violation of the condition of approval that would be enforceable by the Zoning Official. Joe Scotto stated that he is asking the Committee for their support to enforce what was agreed upon in the resolution.

Mr. Christou stated that his dog was shot with an arrow. Mayor Allen suggested that Fish and Wildlife be contacted to see they if the hunting regulations are being violated.

Mr. Scotto asked about the warranty on the trees that were planted in the development by Mr. DiIorio because he stated several trees never came back from the drought. Engineer McEldowney suggested that a landscape architect assess the condition of the trees in the spring.

Mr. Scotto stated that Evergreen Place has a continuous erosion problem. Engineer McEldowney stated that he agreed with the obvious erosion on Evergreen Place which needs to be attended to and recommended that a letter be written to Mr. DiIorio.

A **MOTION** was made by Mr. Shamey to request that Engineer McEldowney send a letter to Mr. DiIorio regarding the drainage issue, seconded by Mr. Gatti with a vote of ayes all, nays none recorded.

NEW BUSINESS

1. ***BOND ORDINANCE PROVIDING FOR THE ACQUISITION OF PROPERTY FOR AFFORDABLE HOUSING PURPOSES, LOCATED AT 114 MAIN STREET, WHITEHOUSE STATION, NEW JERSEY, IN AND BY THE TOWNSHIP OF READINGTON, IN THE COUNTY OF HUNTERDON, NEW JERSEY, APPROPRIATING \$270,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$256,500 BONDS OR NOTES OF THE TOWNSHIP TO FINANCE PART OF THE COST THEREOF***

Mayor Allen stated that this is a property that the Township is interested in purchasing in order to bring it into compliance with our COAH obligation.

The following ordinance was offered for introduction:

BOND ORDINANCE PROVIDING FOR THE ACQUISITION OF PROPERTY FOR AFFORDABLE HOUSING PURPOSES, LOCATED AT 114 MAIN STREET, WHITEHOUSE STATION, NEW JERSEY, IN AND BY THE TOWNSHIP OF READINGTON, IN THE COUNTY OF HUNTERDON, NEW JERSEY, APPROPRIATING \$270,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$256,500 BONDS OR NOTES OF THE TOWNSHIP TO FINANCE PART OF THE COST THEREOF

ORDINANCE # 31-2009

BE IT ORDAINED BY THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF READINGTON, IN THE COUNTY OF HUNTERDON, NEW JERSEY (not less than two-thirds of all members thereof affirmatively concurring) AS FOLLOWS:

Section 1. The improvement described in Section 3 of this bond ordinance is hereby authorized to be undertaken by the Township of Readington, New Jersey (the "Township") as a general improvement. For the improvement or purpose described in Section 3, there is hereby appropriated the sum of \$270,000, including the sum of \$13,500 as the down payment required by the Local Bond Law. The down payment is now available from the Capital Improvement Fund.

Section 2. In order to finance the cost of the improvement or purpose not covered by application of the down payment, negotiable bonds are hereby authorized to be issued in the principal amount of \$256,500 pursuant to the Local Bond Law. In anticipation of the issuance of the bonds, negotiable bond anticipation notes are hereby authorized to be issued pursuant to and within the limitations prescribed by the Local Bond Law.

Section 3. (a) The improvement hereby authorized and the purpose for the financing of which the bonds are to be issued is the acquisition of property for affordable housing purposes,

located at 114 Main Street, Whitehouse Station, New Jersey, including all related costs and expenditures incidental thereto.

(b) The estimated maximum amount of bonds or notes to be issued for the improvement or purpose is as stated in Section 2 hereof.

Ordinance #31-2009 cont'd:

(c) The estimated cost of the improvement or purpose is equal to the amount of the appropriation herein made therefor.

Section 4. All bond anticipation notes issued hereunder shall mature at such times as may be determined by the chief financial officer; provided that no note shall mature later than one year from its date. The notes shall bear interest at such rate or rates and be in such form as may be determined by the chief financial officer. The chief financial officer shall determine all matters in connection with notes issued pursuant to this ordinance, and the chief financial officer's signature upon the notes shall be conclusive evidence as to all such determinations. All notes issued hereunder may be renewed from time to time subject to the provisions of the Local Bond Law. The chief financial officer is hereby authorized to sell part or all of the notes from time to time at public or private sale and to deliver them to the purchasers thereof upon receipt of payment of the purchase price plus accrued interest from their dates to the date of delivery thereof. The chief financial officer is directed to report in writing to the governing body at the meeting next succeeding the date when any sale or delivery of the notes pursuant to this ordinance is made. Such report must include the amount, the description, the interest rate and the maturity schedule of the notes sold, the price obtained and the name of the purchaser.

Section 5. The Township hereby certifies that it has adopted a capital budget or a temporary capital budget, as applicable. The capital or temporary capital budget of the Township is hereby amended to conform with the provisions of this ordinance to the extent of any inconsistency herewith. To the extent that the purposes authorized herein are inconsistent with the adopted capital or temporary capital budget, a revised capital or temporary capital budget has been filed with the Division of Local Government Services.

Section 6. The following additional matters are hereby determined, declared, recited and stated:

(a) The improvement or purpose described in Section 3 of this bond ordinance is not a current expense. It is an improvement or purpose that the Township may lawfully undertake as a general improvement, and no part of the cost thereof has been or shall be specially assessed on property specially benefitted thereby.

(b) The period of usefulness of the improvement or purpose within the limitations of the Local Bond Law, according to the reasonable life thereof computed from the date of the bonds authorized by this ordinance, is 40 years.

(c) The Supplemental Debt Statement required by the Local Bond Law has been duly prepared and filed in the office of the Clerk, and a complete executed duplicate thereof has been filed in the office of the Director of the Division of Local Government Services in the Department of Community Affairs of the State of New Jersey. Such statement shows that the gross debt of the Township as defined in the Local Bond Law is increased by the authorization of the bonds and notes provided in this bond ordinance by \$256,500, and the obligations authorized herein will be within all debt limitations prescribed by that Law.

(d) An aggregate amount not exceeding \$5,000 for items of expense listed in and permitted under N.J.S.A. 40A:2-20 is included in the estimated cost indicated herein for the purpose or improvement.

Section 7. Any grant moneys received for the purpose described in Section 3 hereof shall be applied either to direct payment of the cost of the improvement or to payment of the obligations issued pursuant to this ordinance. The amount of obligations authorized but not issued hereunder shall be reduced to the extent that such funds are so used.

Section 8. The chief financial officer of the Township is hereby authorized to prepare and to update from time to time as necessary a financial disclosure document to be distributed in connection with the sale of obligations of the Township and to execute such disclosure document on behalf of the Township. The chief financial officer is further authorized to enter into the appropriate undertaking to provide secondary market disclosure on behalf of the Township

pursuant to Rule 15c2-12 of the Securities and Exchange Commission (the “Rule”) for the benefit of holders and beneficial owners of obligations of the Township and to amend such undertaking from time to time in connection with any change in law, or interpretation thereof, provided such undertaking is and continues to be, in the opinion of a nationally recognized bond

Ordinance #31-2009 cont’d:

counsel, consistent with the requirements of the Rule. In the event that the Township fails to comply with its undertaking, the Township shall not be liable for any monetary damages, and the remedy shall be limited to specific performance of the undertaking.

Section 9. The full faith and credit of the Township are hereby pledged to the punctual payment of the principal of and the interest on the obligations authorized by this bond ordinance. The obligations shall be direct, unlimited obligations of the Township, and the Township shall be obligated to levy ad valorem taxes upon all the taxable real property within the Township for the payment of the obligations and the interest thereon without limitation of rate or amount.

Section 10. The Mayor, Deputy Mayor, Township Administrator/Clerk and Township Attorney, as the case may be, are authorized pursuant to N.J.S.A. 40A:12-1 *et seq.*, and any other applicable law, to prepare and sign any and all necessary documentation to effectuate the acquisition as described herein, concerning the property located at 114 Main Street, Whitehouse Station, New Jersey, including, but not limited to, any contracts and amendments thereto and all closing documents needed to complete the purchase.

Section 11. This bond ordinance shall take effect 20 days after the first publication thereof after final adoption, as provided by the Local Bond Law.

A ***MOTION*** was made by Mrs. Muir to introduce this ordinance, seconded by Mr. Shamey and on Roll Call vote the following was recorded:

Mr. Auriemma	- Aye
Mr. Gatti	- Aye
Mrs. Muir	- Aye
Mr. Shamey	- Aye
Mayor Allen	- Recused

A Public Hearing was scheduled for December 7, 2009 at 8:00 p.m.

ρ 2. ***Award of Bond Anticipation Notes \$7,500,000***

This matter was addressed under the Consent Agenda.

ρ 3. ***Cellco Partnership d/b/a/ Verizon Wireless, Block 17, Lot 9*** – release of escrow with maintenance bond required

This matter was addressed under the Consent Agenda.

ρ 4. ***Agricultural Development Area – Block 94, Lots 6.02, 8 and 11***

This matter was addressed under the Consent Agenda.

ρ 5. ***Amended Postponement of Mortgage*** – Ruthanne Walsh (418 South Branch Drive)

This matter was addressed under the Consent Agenda.

ρ 6. ***Postponement of Mortgage*** – Rene Russo (406 Dove Cote Court)

This matter was addressed under the Consent Agenda.

7. ***Sophie Street Road Improvements***

Lloyd Tubman, Esq. stated that she is appearing before the Township Committee at the direction of the Planning Board. Ms. Tubman stated that there are currently eight (8) residences on the existing Sophie Street, which is approximately fifteen (15) feet wide. She stated that there is a proposed

subdivision with eight (8) new lots before the Planning Board which would extend the existing Sophie Street. Ms. Tubman stated that it is the recommendation of the Planning Board Engineer to widen Sophie Street to twenty-two (22) feet and in addition, at the recommendation of the Zoning Official, to have those eight (8) lots be served by public water. Ms. Tubman stated that the RSIS standards allows for either an 18 or 20 ft. cartway. Engineer McEldowney recommended that no decision be made on the width of the road at this meeting until he can review the letter from the State.

Ms. Tubman also requested direction from the Committee regarding a water line extension. Mayor Allen stated the Committee will continue to research this matter. Ms. Tubman requested to return at the next meeting of November 16th.

Mr. Auriemma left the meeting at 10:10 p.m.

A **MOTION** was made by Mr. Shamey to dispense with Administrator, Attorney, Engineer and Committee reports for tonight's meeting, seconded by Mrs. Muir with a vote of ayes all, nays none recorded.

COMMENTS FROM THE PUBLIC

Karen McCullough, of Latourette Road, stated that the proposed off road vehicle is too subjective to monitoring the noise level. Attorney Dragan stated that is the reason the ordinance is being forward to the enforcing agencies for comment and review.

Deborah Stassi, stated that with her neighbor's ATV she cannot have quiet enjoyment in her own backyard and would like to see off road vehicles restricted on certain size property lots.

Frank Renda asked about the award of bond anticipation notes and why it was under consent. Administrator Mekovetz explained that the CFO is authorized to bid and award notes and he is required to report the results of the bidding.

As there was no further business, A **MOTION** was made by Mr. Shamey at 10:25 p.m. to adjourn the meeting, seconded by Mr. Gatti with vote of all ayes, nays none recorded.

Respectfully Submitted:

Vita Mekovetz, RMC/MMC/RPPO
Administrator/Municipal Clerk